

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JEREMY J. QUINN,)	CASE NO. 4:18CV2615
Plaintiff,)	
v.)	JUDGE BENITA Y. PEARSON
MR. F. RETORT, <i>et al.</i> ,)	
Defendants.)	<u>ORDER</u>
)	[Resolving ECF Nos. 42 and 43]

I.

Pending in this prisoner civil rights case is *Pro Se* Plaintiff's Motion to Strike Defendants' Notice of Deposition ([ECF No. 42](#)), received for filing on October 23, 2019. Plaintiff requests that the Court Strike Defendants' Notice of Deposition ([ECF No. 40](#)) because Defendants did not comply with [Fed. R. Civ. P. 30\(a\)\(2\)\(B\)](#). Defendants, however, did comply with [Rule 30\(a\)\(2\)\(B\)](#). *See* Defendants' Motion for Leave to Depose Plaintiff ([ECF No. 38](#)) and Order ([ECF No. 39](#)) granting [ECF No. 38](#).¹ Next, Plaintiff requests that his oral deposition to be taken by Defendants on October 28, 2019 "be supervised either by '[Live Video](#) or [Telephone Conference](#)' by the [assigned] District Court Judge," so the judge "can restrain harassing tactics

¹ A copy of [ECF No. 39](#) was mailed to Plaintiff on October 16, 2019.

(4:18CV2615)

or unfair tactics, and also rule immediately upon [Plaintiff's] objections.”² [ECF No. 42 at PageID #: 310](#) (emphasis in original). The request is denied. Finally, Plaintiff requests the Court appoint temporary or stand-in counsel to represent him during his deposition if the Court does not supervise the deposition. This request is denied for the reasons set forth below.

Plaintiff is advised he has a responsibility to cooperate in the prosecution of his lawsuit and, specifically, to permit Defense counsel to proceed with his discovery deposition. Therefore, Plaintiff shall appear for deposition and give testimony on October 28, 2019. His failure to appear or answer questions may result in the Court imposing sanctions, as provided under [Fed. R. Civ. P. 37\(b\)](#). See, e.g., [Cook v. UGN, Inc., No. 11-cv-01020, 2012 WL 3834819 \(W.D. Tenn. Aug. 10, 2012\), report and recommendation adopted, No. 11-cv-01020, 2012 WL 3834848 \(W.D. Tenn. Sept. 4, 2012\)](#) (dismissing case with prejudice pursuant to [Rule 37\(b\)\(2\)\(A\)\(v\)](#) for plaintiff's statement during her discovery deposition that she would not answer questions).

II.

Also pending is Plaintiff's Motion for Appointment of Counsel ([ECF No. 43](#)), received for filing on October 23, 2019. Plaintiff filed a Motion for Appointment of Counsel ([ECF No. 15](#)) on February 21, 2019. [ECF No. 15](#) was denied the next day. Order ([ECF No. 17](#)). A Telephonic Case Management Conference was held on June 24, 2019, during which Plaintiff's

² Plaintiff also requests the Court “allow Mr. Quinn to depose all defendants within this case.” [ECF No. 42 at PageID #: 310](#). The discovery cutoff date is October 28, 2019. Case Management Plan ([ECF No. 29](#)) at PageID #: 241, ¶ 11. [ECF No. 29](#) was entered on June 24, 2019 four (4) months ago. “Discovery cut-off” is that date by which . . . all depositions shall be concluded. Counsel must . . . notice or subpoena depositions sufficiently in advance of the discovery cut-off date so as to comply with this rule. . . .” [Local Rule 16.1\(b\)\(6\)](#).

(4:18CV2615)

oral Motion for Reconsideration of the Denial of His Motion for Appointment of Counsel was denied for the reasons set forth on the record.

Plaintiff now requests the Court appoint counsel to represent him during his oral deposition to be taken by Defendants on October 28, 2019 and “any Future Depositions by the defendants against Mr. Quinn.” [ECF No. 43 at PageID #: 313](#) (emphasis in original). Plaintiff’s third request for the appointment of counsel set forth in [ECF No. 43](#) is denied. *See Stoutmire v. Joseph, No. 1:11-cv-242, 2012 WL 6611441, at *5 (S.D. Ohio Dec. 19, 2012)* (denying motion for assistance of counsel during the plaintiff’s deposition).

III.

Plaintiff’s Motion to Strike Defendants’ Notice of Deposition ([ECF No. 42](#)) is denied.

Plaintiff’s Motion for Appointment of Counsel ([ECF No. 43](#)) is denied.

IT IS SO ORDERED.

October 24, 2019
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge